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The Perception of the Constitution of 3 May 1791 in the Contemporaneous American Press

1. Introduction; 2. Initial reactions; 2.1 *Gazette of the United-States*; 2.2 *National Gazette*; 3. Further comments; 4. Conclusion.

1

The Constitution of 3 May 1791 (The Governance Act, *Ustawa Rządowa*) is considered the first document of its kind in Europe and the second in the world. The term *constitution* was first popularized in the American document of 1787.¹ Even though the method of preparation and its numerous legal solutions are believed outdated and insufficient, the Polish constitution remains a source of pride, particularly since it was written as early as the 18th century. As Butterwick states in his book: “Had the sejm lasted longer, it would have passed on enlightened law code, and probably reformed the status of the Jews. There were ambitious plans for the ‘economic’ and ‘moral’ constitutions”².

The present article investigates the ways the American press of the times portrayed the Constitution. Despite the great distance and the limitations imposed by the technological possibilities of the times, the topic was nonetheless widely commented on at the time and positively, if not enthusiastically, received in the USA. As the sources call it: “The Constitution of May 3 1791 surpassed all expectations. These shifts can be explained by the moving frames of political discourse”³. Oddly, hardly any academic analyses of the abovementioned press material are available, which leaves room for further research. Despite the immense popularity of the

¹ A. Ajnenkiel, *Konstytucje Polski w rozwoju dziejowym 1791–1997*, Rytm, Warszawa 2001, p. 7.

² R. Butterwick, *The Polish Revolution and the Catholic Church, 1788–1792: A Political History*, Oxford University Press, Oxford 2012, p. 8–9.

³ Idem, *The Polish-Lithuanian Commonwealth, 1733–1795: Light and Flame*, Yale University Press, New Haven 2020, s. 238.

Constitution as a topic of research in Poland, its reception in diverse cultures has not been compared.⁴

2

One of the first newspaper articles regarding the topic in the American press appeared as early as on 20 July 1791: a very short delay considering the technological possibilities of the times.⁵ One point that aroused great debate was the concept of succession, dealt with in the Constitution: the house of Wettin from Saxony would inherit the Polish throne after the death of Stanisław August Poniatowski. However, the throne would only be appointed electively in the event that the ruling dynasty dies out.⁶ This fact triggered a heated debate and was frequently commented on in the press, for example in the abovementioned piece, claiming: "The new constitution has just passed in the Diet, by which the Elector of Saxony is declared immediate successor to the Throne of Poland; after whole demise, his daughter is to inherit; and the choice of her husband, if she marries is to be decided by the States. After this Constitution has passed, the King, attended by the Marshalls of the Diet, and a great number of the Members, went to the Cathedral, and took an oath to maintain it".⁷ An optimist vision of a modern society is also presented: "The Union of the Noblesse with the class of citizens meets with daily encouragement. Prince Czartoryski and Count Potocki; Marshal of Lithuania, are become burghers; Count Malachowsky, Marshall of the Diet, has also added himself to the class of citizens, saying at the same time 'that he should think it an honour to be a magistrate of Warsaw'".⁸ Euphoric reactions to the Constitution were included: "One of the magnates has declared his intention of opening a warehouse in his palace, to show that it is by no means degrading for a nobleman to be concerned in trade. The King himself has declared that the reestablishment of the rights of the citizens, rewards him for all the difficulties of his reign, and even gives him cause to rejoice

⁴ Despite the Constitution still being widely discussed in Poland, hardly any academic materials were published abroad. The majority of the English-language materials available are published by the Poles. See: J. Duzinkiewicz, *Fateful Transformations: The Four Years' Parliament and the Constitution of 3 May 1791*, Columbia University Press, New York 1993 (*East European Monographs* series); J. Jędruch, *Constitutions, Elections, and Legislatures of Poland, 1493–1993: A Guide to Their History*, Hippocrene Books, New York 1998.

⁵ *Gazette of the United-States* (New York, NY), July 20, 1791, p. 94.

⁶ W. Uruszczak, *Historia państwa i prawa polskiego*, Vol. 1: (966–1795), Oficyna a Wolters Kluwer business, Warszawa 2010, p. 226.

⁷ *Gazette of the United-States*, July 20, 1791, p. 94.

⁸ *Ibidem*.

at being a King.”⁹ Optimistic, the author gives a subjective and exaggerated vision of the document that was issued.

2.1. The *Gazette of the United-States*, was “the leading Federalist newspaper of the late 18th century, a time of intense partisan politics.”¹⁰ It published the majority of its articles anonymously, which enabled its authors to publicly attack other politicians and men of state. The foundation of *Gazette of the United-States* in 1789, which was meant to be the first “official organ of a political party”¹¹ began the so called “party press era” in American history. The editor, John Fanno, wished to create a national newspaper.¹² He managed to do so, being in “cordial relations” even with the politicians presenting views opposite to his own.¹³ As the sources claim, “he hoped that such a paper would aid the difficult task of turning the disparate societies of the United States into a single unified nation”.¹⁴ Such motivation may be key to understanding the newspaper’s positive reception of the introduction of the Polish constitution.

The events in Poland were frequently openly described as revolutionary: “The late surprising revolution in Poland, is a triumph of reason and benevolence over civil and religious prejudices – these prejudices were abandoned in a moment – and the *tiers état* admitted without distinction of birth or religion to a participation of the legislative and executive powers of government and declared, eligible to any office civil, military and ecclesiastical”.¹⁵

The same issue of the newspaper gave details of the newly-composed document. All eleven articles were summarized to give general and shortened versions. However, some passages are simplified or smoothed to sound better for foreign readers. One example is the translation of Article I, which says: “The Catholic Religion shall be the governing religion of the States, and the King shall profess it. But all other forms or worship shall be admitted, and a general toleration, civil and religious, shall be a fundamental law of the kingdom.”¹⁶ The translation, included

⁹ *Ibidem*.

¹⁰ *Gazette of the United-States and the Related Titles*, <https://chroniclingamerica.loc.gov/lccn/sn83030483> (accessed: May 2, 2020).

¹¹ D.W. Bulla, *Party press era*, Encyclopaedia Britannica, <https://www.britannica.com/topic/party-press-era#ref1221170> (accessed: May 5, 2020).

¹² J.L. Pasley, The Two National „Gazettes”: Newspapers and the Embodiment of American Political Parties, *Early American Literature*, Vol. 35, No. 1, 2000, p. 56.

¹³ *Ibidem*, p. 63.

¹⁴ *Ibidem*.

¹⁵ *Gazette of the United-States*, July 27, 1791, p. 103.

¹⁶ *Ibidem*, s. 102.

in the piece, omitted a key point, the fact that a transition from the official religion of the state was prohibited under the threat of apostasy. Without this piece of information, the Article sounds almost idyllic and thus false.

Similarly, Article IV of the Constitution, which is entitled "Peasants" is shortened to a single sentence: "All strangers who arrive and settle in Poland, shall enjoy full and entire liberty".¹⁷ This claim remains only a minor part, the ending of the whole original paragraph of the Constitution which regulated the situation of peasants by placing them under the protection of national law. However, the Constitution did not abolish serfdom, which the translation omitted. Article V, which originally dealt with the government, is mistakenly labelled Article VI in the newspaper, which causes further incoherence.

The figure of the king, depicted in the original document in Article VII, is here given number VIII and summarized rather briefly: "The King shall exercise the executive power with his council. This council shall be composed of the primate and five ministers, who shall each have a department. No order of the King can be put in execution unless it is signed by the ministers, whose lives and fortunes shall be responsible to each Diet for the orders they shall sign."¹⁸ The name of the cabinet of ministers, Guardians of the Laws (or Guard of the Law – pol. *Straż Praw*), is also never mentioned in the text. Similarly the king's sacredness and responsibility for the nation. The further comments only serve to develop the description of the figure of the king, the case of regency and succession of the Polish throne. Nothing is said about the judicial courts, which remains an integral part of the Governance Act.

One of the newspaper articles makes a direct comparison between Poland and the United States: "The late Revolution in Poland in favor of the liberties of that country, may justly be considered as another instance of the advantage derived to mankind from independence of the United States, and the reference in the King's speech to the new Constitution of this Republic, is a truly honorable testimony to the wisdom and patriotism of the illustrious Convention which framed it."¹⁹ Undoubtedly, the American Constitution, which was composed in 1787 and ratified two years later, was an honourable example to follow. Despite the fact that the Polish document introduced the idea of a *nation*, and used the term several times, it only referred to a stratum of society ranging from the upper class to the burghers, omitting the lowest classes of society. Any similarities between the two abovementioned documents may seem too far-fetched.

¹⁷ *Ibidem*.

¹⁸ *Ibidem*.

¹⁹ *Gazette of the United-States*, August 10, 1791, p. 119.

Another press article, published in the same newspaper on 17 August 1791, being a correspondence from London, states that: "By the new constitution of Poland, the King is invested with high prerogatives, nearly equal to those of Great Britain. He is to have the nomination of Bishops, Senators, and all civil and military officers; and to appoint Ministers and Prime Agents of the executive power, but they shall always be responsible and liable to be dismissed."²⁰ The author, whose name unfortunately was not preserved, continues praising the document, claiming: "It will never be forgot in Poland, that on the memorable 3 of May, the patriotic King Stanislaus Augustus discharged his guards. In the procession from the Senate house to the church, and from the latter place to his own palace, he absolutely refused to have a single man of his usual guard with him, but mixed with the Senators and citizens at large, and frequently was engaged in the crowd."²¹ Despite the fact that the Polish king is highly praised in the press article, not much is said about the document itself, which lowers the historical value of the press article.

There are many other examples of the figure of the Polish king being depicted as a national hero. The press article from August 24, 1791 openly claims: "There are few Sovereigns at present who enjoy a greater share of happiness and security than the King of Poland. As a private character, Stanislaus was always esteemed – but his ready acquiescence in the new constitution, has gained him the hearts of all his subjects."²² The remaining part of the paper appears much too enthusiastic and too far-fetched: "He is now the King of Freemen! A title not extorted from him, but to which he aspired."²³

Similarly, another column in the American press, dated September 7, 1791, reports: "In the history of mankind there are but very few instances to be found, where kings, unsolicited and unintimidated, have made a voluntary surrender of their power. There are many great sayings of great acts; but we read of none that deserves to be preferred in the judgment and estimation of mankind to the late conduct of the King of Poland."²⁴ The author seems to admire Stanisław August, writing about his unrestricted intellect and abilities: "The form of the new constitution of Poland, is not merely sanctioned by the King; but dictated, framed, and fashioned in the exalted superiority of his own mind, affords a new lesson to the world. It shows a Kings who knows and reverences his own station; not a King

²⁰ *Gazette of the United-States*, August 17, 1791, p. 126.

²¹ *Ibidem*.

²² *Gazette of the United-States*, August 24, 1791, p. 134.

²³ *Ibidem*.

²⁴ *Gazette of the United-States*, September 7, 1791, p. 150.

of Robes and Sceptres, not a King of Diadems and Prerogatives, but a King in Mind, in Principle, a King in wisdom and virtue.”²⁵ The constitution was signed despite numerous doubts. The king spoke three times, asking the parliament to release him from the obligations of *pacta conventa*.²⁶ However, his raising of his hand to speak one more time was mistakenly understood as his agreement to promulgate the constitution.²⁷ In the press material, nothing is said about the way the constitution was voted. According to the sources, the meeting ended without counting the votes. It is estimated that only 182 members of the parliament were present, out of the total number of 500, but this number was enough to have the document passed.²⁸

A longer piece on the topic appeared on September 10, 1791, yet again in the *Gazette of the United-States*. There, without any comment, the first four articles of the constitution were copied. The article is not entitled, beginning: “New Constitution of the Government of Poland &c. &c.”²⁹ Articles V and VI of the Constitution were published in the next issue of *Gazette of the United-States*, on September 14, 1791 on page 160, Article VII could be read on September 17, 1791, on page 164. In those pieces, no commentary on the Constitution was included. Although all eleven articles were reprinted in the newspaper, not all issues were preserved. In the press article from September 10, there is also a surprising comment regarding the succession. It says: “Poland, from the sad experience of elective monarchy, by which it has been so long a prey to its own internal feuds, has as at this time determined, the crown shall descend in hereditary succession; a change that will in great probability raise that country to its natural degree of elevation and importance among the surrounding states; by whose meddling interference she had declined to the lowest degree of political insignificance.”³⁰ The reaction of the Elector of Saxony to the idea of gaining the Polish throne was far from optimistic. In a correspondence from Warsaw from August 17 it is said: “An answer has been received here from the Court of Dresden, to the note remitted to it on the subject of Succession by the Cabinet of Warsaw; but the inclination of the Elector to accept the Crown of Poland is not expressed with the warmth that was expected.”³¹

²⁵ *Ibidem*.

²⁶ A. Ajnenkiel, *op. cit.*, p. 48.

²⁷ *Ibidem*, s. 49.

²⁸ *Ibidem*.

²⁹ *Gazette of the United-States*, September 10, 1791, p. 156.

³⁰ *Gazette of the United-States*, August 10, 1791, p. 154.

³¹ *Gazette of the United-States*, October 22, 1791, p. 202.

The signing of the Constitution was mentioned in the sources on numerous occasions. For example, the *Gazette of the United-States* notes: "Every appearance on the continent of Europe indicates peace – His Holiness the Pope has congratulated the King and the Republic of Poland on their New Constitution"³², and that: "The code of laws framed under this Constitution, is to be called the code of Stanislaus – they went into operation the 5th July."³³

2.2. In the reprint of a French paper, also strong words could also been read about the country's condition: "What has become of Poland, with her elective monarch? Has she not been the sport of neighbours, who have divided her best territories among them? With such an example before our eyes, and at the moment when Poland is restoring a hereditary monarchy, how is it possible that any true friend to this country, would administer the potion of death, in holding up to us elective monarchy or republicanism?"³⁴

On February 16, 1792, a reprint of correspondence from various European cities appeared. Among them was a message from Lubeck: "From the delay which the Elector of Saxony has manifested in his acceptance of the hereditary throne of Poland, it is easy to perceive that there has been some obstacle in the way, which obstacle can proceed from none but the Court of Russia. They are generally persuaded in Warsaw, that the Empress is far from content with the changes wrought in the Constitution by the revolution of the month of May, a Constitution which she guaranteed at the time of the partition [...]"³⁵ Surprisingly, the correspondence appeared in the same newspaper also on February 23, but in a slightly amended translation with further details: "The affairs of Poland, are a great object in the treaty of alliance concluded between these two northern courts; one of the articles of which relates to the support of the ancient Polish constitution, especially the right of choosing a king at every vacation of the throne."³⁶ It also discusses the succession of the throne of Poland: "It is certain, that the elector of Saxony has demanded the explanation of several articles of the new constitution – and that for fear of some secret league against her liberties, Poland is soliciting the support of the court of Vienna. M. Woyna, the Polish minister at that court has notified the changes that the king and the republic have thought proper to make in their

³² *Gazette of the United-States*, October 8, 1791, p. 187.

³³ *Ibidem*.

³⁴ *National Gazette* (Philadelphia, Pa.), November 28, 1791, p. 36.

³⁵ *Extract from a letter from Lubeck*, November 24, [1791], *National Gazette*, February 16, 1792, p. 1.

³⁶ *National Gazette*, February 23, 1792, p. 135.

constitution, and at that same time solicited that monarch not to suffer any foreign power to interfere in the arrangements that are found necessary for the prosperity of Poland, nor prevent the elector of Saxony from freely accepting a throne offered him by a free and independent nation.”³⁷ The negotiations with the Elector of Saxony were long and mundane. However, as the sources claim: “Accounts from Warsaw mention, that the elector of Saxony has consented to accept the succession to the crown of Poland”³⁸

These fragments were published in the *National Gazette*, a paper that was founded in 1791 in Philadelphia and is considered to be one of the most important titles in the history of American press. It was issued twice a week until 1793 (only 208 issues were printed).³⁹ Lead by Philip Freneau as a place to share the views of such men of state as Thomas Jefferson and James Madison, the newspaper soon became the vent of Anti-Federalists (also known as Democratic Republicans or just Republicans).⁴⁰ *National Gazette* meant to stand as a counterpoint to the partisan *Gazette of the United States*, edited by John Fenno.⁴¹ The appearance of the title “coincided with the linkage of newspapers to the emerging political parties and set the pattern for several other aspects of newspaper politics.”⁴² The editor, Philip Freneau was chosen by Jefferson and Madison personally as he was known to be a skilled writer.

The subsequent press articles that appeared tended to praise the Polish Constitution. For example: “In Poland the nobility, by the dereliction of usurping pre-eminence, have ingratiated themselves with the people; and the new constitution of Poland seems to be erected on the most solid foundation.”⁴³ One of the key achievements of the newly-designed document was that it stretched the concept of a nation to include only the aristocracy and the possessors of certain classes.⁴⁴ For that reason, the Western audience thought highly of the Polish constitution, as the sources claim, sometimes even more than of the changes introduced during the

³⁷ *Ibidem*.

³⁸ *National Gazette*, January 19, 1792, p. 94.

³⁹ *About National Gazette*, <https://chroniclingamerica.loc.gov/lccn/sn83025887/> (accessed: May 4, 2020).

⁴⁰ *Ibidem*.

⁴¹ *The Origins of Freneau's National Gazette, 25 July 1791 (Editorial Note)*, Founders Online, <https://founders.archives.gov/documents/Madison/01-14-02-0046> (accessed: May 4, 2020).

⁴² J.L. Pasley, *op. cit.*, p. 63.

⁴³ *Gazette of the United-States*, August 18, 1792, p. 90.

⁴⁴ A. Ajnenkiel, B. Leśnodorski, W. Rostocki, *Historia ustroju Polski (1764–1939)*, PWN, Warszawa 1970, p. 17.

French revolution, which were considered to be too dynamic.⁴⁵ The sources claim that the gradual introduction of changes in the state was especially appreciated in the English Press, for example in the articles that appeared in *The Times*.⁴⁶ Obviously the changes could not be too radical since the members of the parliament belonged to the highest class and they wished no revision in the relations between a lord and peasants.⁴⁷

The pieces gathered in the *National Gazette* approved of the situation in Poland: "Has yet met with no interruption in its happy revolution; the new wheels which have been inserted into the machinery of its constitution, have been put in motion, and found to work well and harmoniously with the whole. Neighboring despotism affects to frown, but its frowns are despised, though much remains at some future time to be done for the Poles".⁴⁸ The changes introduced in Poland won highly positive opinions from the journalists: "The people at large are certainly much happier circumstanced than they were, and the nobility not less so. Comparative liberty has been given, without licentiousness having been encouraged".⁴⁹

3

In 1792, some alarming voices were heard: "The Empress of Russia, it is said, has expressed some hostility to the new constitution of Poland".⁵⁰ The situation in Poland was rather tense, and the correspondence from April, reprinted in *National Gazette*, was very telling: "The court of Russia will not hear a word of our new constitution, and their intentions are without doubt hostile to Poland. They have already nominated generals Sottilkow, Michelson, and Kossakowsky, who are to enter Poland at the head of 60,000 men, supported by a body of 20,000 on the borders of Kiova, and the army of general Kothousky, at Moldavia, consisting of 70,000 men".⁵¹

⁴⁵ Konstytucja 3 maja 1791: Na podstawie tekstu Ustawy Rządowej z Archiwum Sejmu Czteroletniego przechowywanego w Archiwum Głównym Akt Dawnych w Warszawie, ed. by A. Grześkowiak-Krwawicz, Muzeum Łazienki Królewskie, Archiwum Głównie Akt Dawnych, Warszawa 2018, p. 14, http://agad.gov.pl/wp-content/uploads/2018/12/Konstytucja-3-maja_PL-v5.pdf (accessed: May 10, 2020).

⁴⁶ *Ibidem*.

⁴⁷ *Ibidem*, s. 18.

⁴⁸ *National Gazette*, December 8, 1791, p. 46.

⁴⁹ *Ibidem*.

⁵⁰ *Gazette of the United-States*, June 23, 1792, p. 27.

⁵¹ *National Gazette*, July 18, 1792, p. 1.

The American press continued to assert that Polish sovereignty was in danger: "The new constitution of Poland is revoked; this measure was recommended by the King as the only alternative to prevent the further effusion of blood, and the dismemberment of the kingdom".⁵² The reaction to the Confederacy of Targowica was rather strong: "The situation of Poland has also excited the attention of the British ministry. A messenger has been dispatched from England to the King of Prussia, with provisional instructions to proceed from thence to Warsaw".⁵³ The events of 1792 posed a threat to the condition of Poland, which was noted worldwide: "Russia and Prussia mean to attack Poland, and to destroy its Constitution"⁵⁴, says one of the articles. Soon the changes introduced (or suggested) in the document were invalid: "The traitors against the constitution of Poland came with arms in their hands, and the lying pretenses of liberty in their mouths, to overthrow the free government and laws of their country".⁵⁵ The Polish king was continuously praised for introduction of the constitution and for all its associated decisions: "The empress of Russia, having obliged king Stanislaus to renounce the new constitution of Poland, and leaving him no alternative but that, or to be overwhelmed with her forces, that philosophical prince, and friend to mankind has thought proper to comply, rather than that his subjects should be slaughtered by the forces of the northern barbarian".⁵⁶

4

The *Governance Act* regulated the basic laws and duties of the citizens but also the organization of public authorities.⁵⁷ It was valid from the date it was issued, May 3, 1791, until June 17, 1793, when the last Sejm, the one which acknowledged the second partition of Poland, was held. It was much appreciated and enthusiastically welcomed in American press, which chose to understand the Constitution as a natural continuation of the process of democratization. However, the articles depicting the document were rather general and far-fetched in their optimism towards introducing democracy, accusing the Constitution of causing social and political changes in Europe. Analyzing press articles, one may jump into hasty conclusion that the king, Stanislaw August Poniatowski, was a reformer whose

⁵² *Gazette of the United-States*, October 3, 1792, p. 143.

⁵³ *Ibidem*.

⁵⁴ *Gazette of the United-States*, July 28, 1792, p. 67.

⁵⁵ *Gazette of the United-States*, October 31, 1792, p. 175.

⁵⁶ *National Gazette*, November 28, 1792, p. 34.

⁵⁷ A. Ajnenkiel, B. Leśnodorski, W. Rostocki, *op. cit.*, p. 13.

main goal was to make all his subjects equal, which was not necessarily true. The Constitution was not thoroughly translated, which simplified and idealized its meaning, causing several misunderstandings and hasty conclusions.

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The Perception of the Constitution of 3 May 1791 in the Contemporaneous American Press

The paper investigates the ways the American press of the times portrayed the Constitution of 3 May 1791. The Governance Act was valid from the date it was issued, May 3, 1791, until June 17, 1793, when the last Sejm, the one which acknowledged the second partition of Poland, was held.

Despite the great distance and the limitations imposed by the technological possibilities of the times, the topic was nonetheless widely commented on at the time and positively received. It was much appreciated and enthusiastically welcomed in American press, which understood the Constitution as a natural continuation of the process of democratization.

However, the articles depicting the document were rather general and far-fetched in their optimism towards introducing democracy, accusing the Constitution of causing social and political changes in Europe. Analyzing press articles, one may jump into hasty conclusion that the king, Stanisław August Poniatowski, was a reformer whose main goal was to make all his subjects equal, which was not necessarily true. The Constitution was not thoroughly translated, which simplified and idealized its meaning.

Key words: *The Governance Act*, Constitution of 3 May 1791, the American press, history of Poland, history of law, 18th century, *Gazette of the United-States*, *National Gazette*

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Konstytucja 3 maja w ówczesnej prasie amerykańskiej

Artykuł omawia sposób przedstawienia Konstytucji 3 maja 1791 r. w amerykańskiej prasie epoki. Ustawa rządowa obowiązywała od dnia wydania do 17 czerwca 1793 r., kiedy odbył się ostatni sejm, uznający drugi rozbiór Polski.

Pomimo dystansu terytorialnego i ograniczeń narzucanych możliwościami technicznymi, treść tego aktu prawnego była szeroko komentowana i spotkała się z niezwykle entuzjastyczną oceną autorów rozumiejących Konstytucję jako naturalną kontynuację procesu demokratyzacji.

Artykuły prasowe opisujące ten akt prawny były ogólnikowe i zbyt daleko idące w swoim optymizmie. Wynikało z nich, że Konstytucja wprowadzała demokrację oraz przyczyniała się do zmian społecznych i politycznych w Europie. Analizując je, można uznać króla Stanisława Augusta Poniatowskiego za czołowego reformatora, którego głównym celem było zrównanie wszystkich poddanych. Konstytucja nie została dokładnie przetłumaczona, a jej znaczenie zostało uproszczone i wyidealizowane.

Słowa kluczowe: Konstytucja 3 maja, prasa amerykańska, historia Polski, historia prawa, XVIII wiek, „Gazette of the United-States”, „National Gazette”